BPQA

Board of Physician Quality Assurance Spring Edition, 2002 Vol 01



MESSAGE FROM THE CHAIRMAN OF THE BOARD

The Board of Physician Quality Assurance is devoting a significant part of this Newsletter to helping Maryland prepare to handle public health emergencies that could result from terrorism and bioterrorism. No single level of government nor segment of society is exempt from the need to plan ahead for emergencies. In November, Governor Glendening announced creation of regional "Rapid Response Teams" trained to assess situations, deploy resources, and coordinate services in case of emergencies. Maryland's existing health care providers and facilities physicians, pharmacists, nurses, local health departments, hospitals, etcwould play a major role in case of

emergency. After the September 11th disasters, the Maryland Department of Health and Mental Hygiene received numerous calls from health care workers who wanted to volunteer their services. It became apparent that with preplanning and organization, Maryland would be in an excellent position to respond to terrorism, bioterrorism, or other public health threats.

Secretary Benjamin's letter invites your participation in the State's planning for emergencies. If you are willing to volunteer, please take a few minutes to fill out the form on page 3 and return it to the Board.

The Board will confirm your licensure and create a database to enable us to reach you in an emergency.

We will also be able to acknowledge you formally as a volunteer in order to qualify you for qualified immunity under Maryland's Tort Claims Act, and provide information about special training opportunities or specific information you should have about Maryland's plans.

We all hope that this nation will never see a repetition of September 11th, but many of us feel helpless when we consider the enormity of what could happen. Now you can do something to help—by registering your willingness, using the form on page 3.

Samir Neimat, M.D.

MESSAGE FROM THE SECRETARY

Dear Maryland Physicians:

Since the September 11, 2001 disaster, there has been heightened awareness and concern that all states are prepared and ready in the event of another disaster. As part of Maryland's emergency preparedness efforts, the Department of Health and Mental Hygiene has identified the need for physician volunteers to help staff hospitals, clinics, alternate treatment facilities and potentially work in other environments.

Physicians may also be asked to provide technical knowledge or experience in the recognition and handling of a biological, chemical or radiological agent(s) and/or treatment in the event of an incident(s) or large scale disaster event.

The purpose of this message is to request that you consider volunteering your time in the event of an emergency or disaster situation. If you would be willing to volunteer, please complete the Physician Contact Volunteer Information form and mail or fax, it to the Board of Physician Quality Assurance (BPQA).

The Board of Physician Quality Assurance is assisting the Department in their endeavor by establishing and maintaining a database of volunteer physicians. If you have already sent a letter to the Department or BPQA, we would appreciate it if you would complete this specific form. We are also seeking physician assistants as volunteers. Please pass this letter on to physician assistants where you work to enlist their support.

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What's Inside... **Pg 2**-FAQ, Physician Profiles,Transmitting Prescriptions, Law & Human Rights **Pg 3**-Volunteer Form **Pg 4**-Mailback for Volunteer Form **Pg 5** - Legislative Updates

Pg 6 - 7 Board Orders and Administrative Fines Pg 8- Renewal Notice, NPO

In an attempt to help our licensees, "Frequently Asked Questions" will be featured in issues of the Board's newsletter. If you have a question you would like to see answered in this column, please fax your question to 410-358-2252 or e-mail to BPQA at bpqa@erols.com.

Medical Records

Question: May I charge patients when they request a copy of their medical records?

Answer: Yes you may charge for the copying of a medical record. Effective July 2001, the charges for copying a medical record (except xrays) are as follows:

- -Preparation fee of no more than \$17.90;
- -No more than .59 cents per page copied:
- -Actual cost of postage.

Question: How long do I have to retain a patient medical record after the patient has died or ceased coming to my practice?

Answer: If the patient is an adult, you must retain the medical record for 5 years from the date the record was created. For a record created about a minor patient, the record must be maintained until the patient reaches the age of majority plus three years (i.e., 18 + 3 = 21 years of age) or 5 years after the record was created, whichever is later.

Question: May I refuse to disclose a medical record to a patient, if the patient fails to pay for health care rendered by me?

Answer: No, you may not refuse to disclose a medical record because of the patient's failure to pay a medical bill from you. In addition, if you do not disclose the medical record for this reason.

you could be found guilty of a misdemeanor and on conviction could be subject to a fine not exceeding \$1,000 for the first offense and not exceeding \$5,000 for each subsequent conviction for this viola-

Question: What is considered a "timely response" to a request for medical records?

Answer: A physician should mail a copy of the medical record within 21 business days. Maryland Code Annotated, Health General Article Section 4-309(a) states "a reasonable time but no more than 21 working days after the date a person in interest requests the disclosure."

Office Rental

Question: Can an office rental agreement constitute an illegal kickback or self-referral?

Answer: Yes. The most obvious situation which might raise legal difficulties is a lease in which the rent is adjusted based on referrals from physician. This situation might well violate the Marvland Medical Practice Act, which prohibits payment or the acceptance of compensation for referrals. Such an arrangement may also violate Maryland law against self-referrals, which prohibits referrals to any health care provider with whom the physician has a compensation arrangement. The Board is required by statute to enforce both of these laws. Federal law also prohibits physicians from referring Medicare patients to persons with whom the physician has a financial relationship. Although renting an office from another physician may appear to be a simple matter, conditioning rent in any way upon referrals could lead to serious legal difficulties.

Physician Profiles

Physician profiles for over 22,000 Maryland physicians are now available on line at www.bpga.state.md.us. These profiles contain information about medical school and postgraduate training, specialty board certification, hospitals where a physician has privileges, address of the primary practice location, and final disciplinary actions by the Board and actions taken by other state boards as reported to the National Practitioner Data Bank. Thanks to all of you who responded to the opportunity you had to review your profiles before they went on line. The Physician Profiles are available to the general public through the Board's website. The Board invites you to take a look at your profile on the Internet. If you have any questions about your profile, please contact the Towanda Tombs at 410-764-4777 or 1-800-492-6836. If you wish to update your profile, please mail your comments to Towanda Tombs, BPQA, PO Box 2571, Baltimore, MD 21215-0095.

Transmitting Prescriptions

n light of recent studies on medication errors, the Board of Physician Quality Assurance wants to clarify who may transmit a physician's prescription by telephone to another health care facility, provider, or pharmacy. Frequently, unlicensed staff are transmitting prescriptions by telephone. Is this legal?

Maryland regulations (COMAR 10.32.12) allow a physician to delegate certain acts to an unlicensed assistant so long as the physician ensures that the assistant has necessary training, supervises the assistant, and retains responsibility for the delegated acts. One responsibility that may be delegated to an assistant is transmitting a prescription to a pharmacy, but not to another health care facility. A physician cannot transmit the prescription to an "assistant" at a facility and "delegate" to that individual transmitting the the tenant-physician to the landlord-prescription on to a pharmacy. To prevent medication errors and conform to accepted practice, the physician or his assistant should transmit the prescription directly to the pharmacy.

> By: Donald Chambers, M.D. Vice Chair

Law and Human Rights

he Board of Physician Quality Assurance acknowledges the American Medical Association's ethical opinion, "Physician-Patient Relationship: Respect for Law and Human Rights." The opinion states that physicians who offer their services to the public may not decline to accept patients because of race, color, religion, national origin, sexual orientation, or any other basis that would constitute invidious discrimination. The Board cautions that physicians who disregard the AMA policy may be in violation of the Maryland Medical Practice Act and may be subject to discipline for immoral or unprofessional conduct in the practice of medicine.

Note: Full text of AMA Opinion 9.12 may be accessed online at http://www.ama-assn.org/ama/pub/category/2503.html

> By: Donald Chambers, M.D. Vice Chair

Physician Volunteer Contact Information

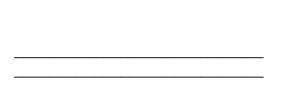
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Yes, I would be willing to volunteer my time to provide medical care in an emergency situation.

Name		License#	Ехр.	Date:		1
Pager	Cell		E-mail (home	·)		
E-mail (work)	Home phone ()	Work phone ()		
Fax (home)	Fax (wo	ork)				
GIVE US THE ONE BES AN ACTUAL EMERGEN	ST NUMBER OR E-MAIL NCY.	ADDRESS THAT	Γ SHOULD BE USED) IN THE	EVE	NT OF
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prefer to volunte				n which	you v	would
Name of Practice:						
Work Address:						
County:	Zip Code:	Phone	ə:	F	ax:	
Home Address:						
		Zip Code:				
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Legislative Updates

Sunset

The 2002 session of the Maryland General Assembly closed at midnight on April 8, 2002. After a "sunset review" which analyzed the functioning of the Board of Physician Quality Assurance in detail, bills were considered that would have extended the life of the Board and changed some operating details (HB 846, SB 613). One pivotal issue was the peer review process used when the Board is investigating charges that a physician failed to meet the standard of care. Currently, peer review is coordinated by MedChi, using two reviewers who are generally Maryland physicians practicing in the same specialty as the physician being evaluated. Possible changes considered were to use an agency other than MedChi to coordinate the reviews, to use a third reviewer if the first two reviewers differed on whether the standard of care had been met, and specifying qualifications for the reviewers. Another issue was increasing or changing Board membership and changing the process for nominating physicians for consideration by the Governor for Board membership (now done by MedChi). In the end, the General Assembly did not pass any "sunset" legislation.

Does the failure of the General Assembly to pass one of these bills mean that physician licensing will come to a halt in Maryland? Fortunately, the Board continues to exist through July 1, 2003. The 2003 General Assembly will have to reach resolution on these issues.

Medical Radiation Technologists and Nuclear Medical Technologists

The General Assemly did pass legislation (SB 534 and HB 518) to incorporate into law many of the provisions now in regulations governing the licensure, scope of practice, and related details of the Board operations to certify and discipline three categories of allied health professionals working with radiation. Thanks to cooperation with the legislators, the bills were amended to make them consistent with most current practices. Staff in a physician's office who were not hired primarily to take x-rays, who took a 30-hour course and were approved by the Board in 1994 may continue to take the x-rays permitted by the 1994 law under the new provisions.



Exception to seven-year rule

Two bills (SB 42 and HB 375) would have required the Board to adopt regulations granting an exception to the 7-year rule for passing licensure examinations for applicants whose medical training was interrupted by serious illness. The Board decided that it was preferable to amend the regulations to extend the time period for all applicants, allowing them up to ten years, with no more than 3 fails on each step. Proposed amendments to the licensure regulations are expected to be printed in the Maryland Register on May 3, 2002. As a result, the two licensure bills received an unfavorable report in the House Environmental Matters Committee.

Physician Assistants

HB 533, which passed the General Assembly, makes changes in the Maryland Physician Assistant's Act. This bill allows for alternate supervising physicians for physician assistants working in the community, so that a physician assistant can continue to work when his primary supervising physician is on leave. In detention centers and public health facilities, supervising physicians will be permitted to supervise (and have delegation agreements with) more than two physician assistants. The bill also directs the Board, the Board of Nursing, and others to study and report on what education and training should be required for a physician assistant to administer anesthesia.

Drug Therapy Management

After extensive work last summer and fall, a multi-disciplinary committee convened by the Board of Pharmacy crafted a bill (SB 676/HB 781) which allows physicians and pharmacists to collaborate more closely to improve outcomes for patients with chronic conditions. The Boards of Pharmacy and Physician Quality Assurance will be jointly responsible for developing regulations and implementing the program. With the consent of the patient, physician, and pharmacist, this bill will allow the pharmacist to assist the patient in maintaining adequate control of conditions such as diabetes and hypertension.

For those bills which passed both Houses and are signed by the Governor, you will hear more in the next few months as the Board takes action needed to implement the changes.

If you are interested in obtaining more information, including copies of the bills discussed in this article, you can access them through the General Assembly's website: mlis.state.md.us. That site will also let you know which bills have been signed by the Governor.

MHCC BOOKMARK OFFER TO HELP YOUR PATIENTS FIND OBJECTIVE INFORMATION ON MARYLAND HMOS, NURSING HOMES & HOSPITALS

The Maryland Health Care Commission (MHCC) is offering to send physicians a free supply of consumer handouts for their patients. The handout, in the form of a "bookmark," briefly describes the three types of performance evaluation guides for consumers that the MHCC produces and posts on its website: http://www.mhcc.state.md.us. Interested physicians may request bookmarks by contacting the MHCC 4201 Patterson Avenue, 5th Floor, Baltimore, MD 21215, Phone: 410-764-3460 or 1-877-245-1762 toll-free. E-mail Zeke Barbour: zbarbour@mhcc.state.md.us

BOARD ORDERS April 04, 2001 - March 31, 2002

NOTE: More details of these actions appear under "BPQA Newsletters" at the Maryland home page www.docboard.org.

Full text of orders may be downloaded from same internet site at "Search for a Provider."

Gerald H. Fink, M.D.

REPRIMAND, PROBATION FOR 3 YEARS. License #:D02125

Specialty: Psychiatry

Silver Spring, MD, Date of Action: April 4, 2001

Barbara A. Solomon, M.D.

REVOCATION, License #: D10472

Specialty: Internal Medicine

Baltimore, MD, Date of Action: April 4, 2001

Paul A. Mullan, M.D.

SUSPENSION, License #: D08462

Specialty: Pediatrics

Towson, MD, Date of Action: April 11, 2001

Melvin J. Duckett, M.D.

SUSPENSION; FINE OF \$10,000; AND TERMS AND CONDITIONS; AFTER 3 MONTHS IF TERMS AND CONDITIONS MET, PROBATION

FOR 4 YEARS. License #: D32401,

Specialty: Urological Surgery

Sparks, MD, Date of Action: April 24, 2001

Mark Davis, M.D.

TERMINATION OF DECEMBER 8, 1995 ORDER, PERMANENT CONDI-

TIONS, License #: D23760, Specialty: Internal Medicine

Abington, MD, Date of Action: April 25, 2001

Nathan D. Goldenthal, M.D.

REPRIMAND. License #: D36337, Specialty: General Preventative

Medicine

Scottsdale, AR, Date of Action: April 25, 2001

Daniel R. Howard, M.D.

DISCONTINUATION OF THE PRACTICE OF OBSTETRICS, License #:

D43386, Specialty: OB/GYN

Baltimore, MD, Date of Action: April 25, 2001

Roland Imperial, M.D.

SUMMARY SUSPENSION ORDER UPHELD, License# D05276

Specialty: Unspecified

Bethesda, MD, Date of Action: April 25, 2001

David C. Allen, M.D.

SURRENDER OF LICENSE, License #: D25230

Specialty: Internal Medicine

California, MD, Date of Action: May 23, 2001

Barry Ray Byram, M.D.

SURRENDER OF LICENSE, License #: D50059

Specialty: General/Family Practice

Laguna Beach, CA, Date of Action: May 23, 2001

Robert T. Horton, M.D.

SUSPENSION, License #: D54056, Specialty:Psychiatry

Baltimore, MD, Date of Action: January 9, 2002

Melvin Duckett, M.D.

SUSPENSION EFFECTIVE APRIL 24, 2001, STAYED; PROBATION FOR 4 YEARS, License #: D32401, Specialty: Urological Surgery,

Sparks, MD, Date of Action: December 19, 2001

Suhayl S. Kalash, M.D.

STAY OF SUSPENSION OF SEPTEMBER 19, 2001 CONSENT ORDER;

PROBATION FOR 4 YEARS, License #: D23768

Specialty: Urological Surgery, Cockeysville, MD,

Date of Action: December 19, 2001

Mary H. Fang, M.D.

LICENSE REINSTATED, PROBATION FOR 2 YEARS,

License #: D23448, Specialty: Internal Medicine

Potomac, MD, Date of Action: May 23, 2001

Alan S. Greenberg, M.D.

REVOCATION, License #: D04728

Specialty: Neurology

Jarrettsville, MD, Date of Action: May 23, 2001

David M. O'Neil, M.D.

REPRIMAND WITH CONDITIONS, License #: D22619

Specialty: OB/GYN

Baltimore, MD, Date of Action: May 25, 2001

Paul J. Scheel, Jr. M.D.

REPRIMAND, License #: D39882

Specialty: Unspecified

Ellicott City, MD, Date of Action: May 25, 2001

Hanif A. Gopalani, M.D.

SUMMARY SUSPENSION, License #: D37448

Specialty: Psychiatry

Baltimore, MD, Date of Action: June 11, 2001

Ronald J. Crisp, M.D.

DENIAL OF LICENSE, License #: No License

Specialty: Not Specified

Frederick, MD, Date of Action: June 27, 2001

Arvind Kumar Pathak, M.D.

REPRIMAND, License #: D12867, Specialty: Family Practice Reston, VA,

Date of Action: June 27, 2001

Joel Cohen, M.D.

REPRIMAND; PROBATION FOR 2 YEARS, License #: D08672

Specialty: Psychiatry

Potomac, MD, Date of Action: July 11, 2001

Alfredo J. Herrera, M.D.

SUSPENSION, License #: D17863, Specialty: Pediatrics

Ellicott City, MD, Date of Action: July 18, 2001

Arvind K. Pathak, M.D.

REVOCATION. License #: D12867

Specialty: General/Family Practice

McLean, VA, Date of Action: July 18, 2001

Alfredo J. Herrera, M.D.

REVOCATION, License #: D17863, Specialty: Pediatrics

Ellicott City, MD, Date of Action: November 28, 2001

Ross Joseph Brechner, M.D.

LICENSURE, PHYSICIAN NOT TO PRACTICE SURGERY, License #:

D39783, Specialty: Ophthamology

Phoenix, AZ, Date of Action: July 25, 2001

William F. Eberlin

FINE \$15,000. No License, No Specialty

Gaithersburg, MD 20877, Date of Action: September 19, 2001

Suhayl S. Kalash, M.D.

SUSPENSION FOR 1 YEAR; \$10,000 FINE; IF FINE PAID, PROBATION

FOR 4 YEARS, License#: D23768, Specialty: Urology, Cockeysville,

MD, Date of Action: September 19, 2001

BOARD ORDERS April 04, 2001 - March 31, 2002

Pricha Phattiyakul, M.D.

SUSPENSION FOR 12 MONTHS, SIX MONTHS STAYED, TERMS AND CONDITIONS; IF SUSPENSION STAYED 3 YEARS PROBATION,

License #: D17730

Specialty: Anesthesiology

Frederick, MD, Date of Action: September 19, 2001

George Yossif, M.D.

REINSTATEMENT, License #: D21314, Specialty:Psychiatry

Baltimore, MD, Date of Action: July 25, 2001

William H. Choate, M.D.

REPRIMAND; PROBATION FOR 3 YEARS, License #: D01030

Specialty: General/Family Practice

Annapolis, MD, Date of Action: August 22, 2001

Romanus O. Nwanna, M.D.

DENIAL OF LICENSE, No License, Specialty: Unspecified Scotch

Plains, NJ, Date of Action: August 22, 2001

Young H. Yu, M.D.

SURRENDER, License #: D09075, Specialty: OB/GYN

Towson, MD, Date of Action: August 22, 2001

James T. Hicks, M.D.

REVOCATION, License #: D05178, Specialty: General Practice

Oakbrook Terrace, IL, Date of Action: September 5, 2001

Mahmoud Nemazee, M.D.

TERMINATION OF SUSPENSION PER THE CONSENT ORDER OF MARCH 28, 2001, REINSTATEMENT WITH A CONDITION, License #:

D38784 Specialty: Internal Medicine,

Santa Monica, CA, Date of Action: January 23, 2002

John P. Serlemitsos, M.D.

REVOCATION, License #: D32654, Specialty: Internal Medicine,

Crownsville, MD, Date of Action: December 19, 2001

Robert Michael Elliott, M.D.

DENIAL OF REINSTATEMENT, License #:D42601

(non-renewed), Dermatology

San Juan Capistrano, CA, Date of Action: January 16, 2002

Sol Witriol, M.D.

STAY OF SUSPENSION LIFTED, License #: D29137

Specialty: General Practitioner

Baltimore, MD, Date of Action: September 26, 2001

Alan Brody, M.D.

SUSPENSION FOR 6 MONTHS; 3 MONTHS STAYED; PROBATION

FOR 3 YEARS, License #: D26759, Specialty: Psychiatry

Potomac, MD, Date of Action: October 17, 2001

Norman L. Clark, M.D.

REVOCATION. License #: D42095. Specialty: Plastic Surgery

Parsippany, NJ, Date of Action: January 23, 2002

Carmen N. DiMario, D.O.

REVOCATION, License #: H47569, Specialty: Plastic Surgery

West Chester, PA, Date of Action: January 23, 2002

Hanif A. Gopalani, M.D.

SURRENDER, License #: D37448, Specialty: Psychiatrist

Olney, MD, Date of Action: January 23, 2002

William K. Kelly, M.D.

SUMMARY SUSPENSION, License #: D39979

Specialty: Medical Oncology

Bethesda, MD, Date of Action: January 23, 2002

Paul A. Mullan, M.D.,

REVOCATION STAYED, License #: D08462, Specialty: Unspecified

Towson, MD, Date of Action: January 23, 2002

Mahmoud F. Abbas, M.D., DENIAL OF REINSTATEMENT Lic# D12722,

Specialty: Psychiatry, Ellicott City, MD, Date of Action: July 25, 2001

Israel Kogan, M.D., SUSPENSION FOR 6 MONTHS; STAY AFTER 3 MONTHS IF CONDITIONS MET; PROBATION FOR 3 YEARS. License #:

D14110, Specialty: OB/GYN, Washington, DC Date of Action: March 15,

2002

William Ellis, M.D., REPRIMAND, TERMS AND CONDITIONS. License #: D04173, Specialty: Ophthalmology, El Cerrito, CA, Date of Action: March

20, 2002

Jeffrey I. Goltz, M.D., REINSTATEMENT WITH A CONDITION. License #:

D16463, Specialty: Orthopedic Surgery, Boca Raton, FL Date of Action:

March 20, 2002

Hassan H. Hodjati, M.D., SUMMARY SUSPENSION. License #: D23383,

Specialty: General Surgery, Silver Spring, MD,

Date of Action: March 20, 2002

Tsu-Chun Lin, M.D., SURRENDER. License #: D24756, Specialty:

Pediatrics, Gambrills, MD, Date of Action: March 20, 2002

Shirley E. Brown-Ornish, M.D., SUSPENSION UNTIL CONDITIONS

MET, FINE OF \$10,000. License # D53085, Mitchellville, MD, Date of

Action: March 28, 2002

ADMINISTRATIVE FINES

Rory C. Byrne, M.D.

PRACTICING WITH A LAPSED LICENSE,

License #:D46196, Specialty: Unspecified

Ellicott City, MD, Date of Action: May 23, 2001

Nancy V. Brown-Holt, M.D.

FAILURE TO PROVIDE DOCUMENTATION FOR CME'S,

License #: D41854, Specialty: OB/GYN

Baltimore, MD, Date of Action: October 24, 2001

Donald J. Fishman, M.D.

PRACTICING WITH A LAPSED LICENSE,

License #: D18250, Specialty: Neurology

Potomac, MD, Date of Action: February 6, 2002

Karen J. Jones, MRT

PRACTICING WITH A LAPSED CERTIFICATION.

Certification #: R06238, Radiologic Technologist

Essex, MD, Date of Action: February 6, 2002

Julia Yu-Yun Lee, M.D.

PRACTICING WITH A LAPSED LICENSE,

License #: D27788, Specialty: Unspecified

Ellicott City, MD, Date of Action: May 9, 2001

Renewal Notice

Physicians whose last names begin with the letters A-L must renew their medical licenses by September 30, 2002. Renewal applications will be mailed in early July to the last address the physician supplied to the Board. If you do not receive your application by the end of July, please contact the Board or take advantage of the new option to renew online.

This year physicians will be able to renew online, 24 hours a day, 7 days a week. You will be able to update any information which has changed, but will not have to re-enter information which has not changed. We hope to offer electronic payment as a feature for the online renewal.

Physicians must earn 50 category I CME credits for renewal. The dates when your credits were earned must fall within the current licensing cycle. For those renewing this year, credits must have been earned between October 1, 2000 and September 30, 2002.

Physicians whose renewal applications are not postmarked by September 30, 2002 will no longer be licensed to practice medicine in Maryland on October 1, 2002. Physicians practicing without a valid license are subject to fines up to \$50,000.

New Physicians Orientation Goes Online

On March 20, 2002, the BPQA approved a web-based alternative to the classroom presentation of the New Physician Orientation Program. The new format was designed in part in response to suggestions by attendees that the program be available on the Internet. Since 1999, BPQA regulations require all newly licensed physicians to complete a BPQA approved orientation program as a condition for their first renewal. The webbased program allows physicians to complete this requirement at their own pace without having to travel to attend the session. The program content remains focused on orienting the newly licensed physician to the structure and function of the BPQA using case studies and question-and-answer format to convey information. Information on the program will be posted at http://www.bpqa.state.md.us and http://www.docboard.org.

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4201 PATTERSON AVENUE P.O.BOX 2571 BALTIMORE, MD 21215-0095

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